

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

The City of New York,

Plaintiff,

-against-

Magellan Technology, Inc., et al.,

Defendants.

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Case No. 1:23-cv-05880-LLS-OTW

DECLARATION OF MATTHEW JONATHAN GLAUSER

I, Matthew Jonathan Glauser, hereby declare as follows:

1. I am over 18 years of age and would be competent to testify to the information set forth herein if called as a witness in court.

2. I make this declaration based on my own personal knowledge and review of company records, except where indicated to be upon information and belief.

3. I am a co-founder, partial owner, and the President of Magellan Technology, Inc. ("Magellan").

4. Magellan owns the JUNO and HYDE trademarks and brands of electronic cigarettes both in the United States and in various countries internationally.

5. Magellan has submitted many extensive and costly premarket tobacco product applications (PMTAs) to FDA for its JUNO and HYDE e-cigarette products. FDA issued Magellan a marketing denial order for three non-tobacco-flavored JUNO e-cigarette cartridges in 2021, but Magellan's applications for its tobacco- and menthol-flavored e-cigarette cartridges and the JUNO device that were submitted before the September 9, 2020 deadline are still pending before FDA. Magellan is involved in litigation against FDA regarding the marketing denial order on the three flavored products, even though those three products have not been sold in the United States since early 2020. Magellan also has numerous premarket

applications pending with FDA for various flavored HYDE disposable e-cigarette products. FDA has never issued a marketing denial order for any HYDE disposable e-cigarette products.

6. I am also a co-founder, partial owner, and the Chief Strategy Officer of Ecto World LLC d/b/a Demand Vape (“Demand Vape”).

7. Both Magellan and Demand Vape are located in Buffalo, New York, where I also reside. Both companies’ offices, employees, warehouses, and operations are located in Buffalo. Neither company maintains any offices, employees, inventory, or operations in New York City.

8. I do not personally engage in the sale of e-cigarette or e-liquid products for Demand Vape. Instead, the company’s account representatives handle those functions. To the best of my recollection and belief, I have never personally negotiated for or directed any specific sales of e-cigarette products to a customer of Demand Vape located in New York City.

9. Magellan purchases electronic cigarettes and e-liquids from U.S. and foreign manufacturers and stores its inventory of these products in Buffalo, New York.

10. Magellan does not sell any of its e-cigarette products or e-liquids domestically to any person other than Demand Vape. All of those sales occur in Buffalo.

11. Demand Vape, in turn, sells electronic cigarette and e-liquid products exclusively to businesses. Demand Vape has not sold any electronic cigarettes or e-liquids to consumers or customers that provide a residential address since at least 2020.

12. Demand Vape operates the website hydedisposables.com. However, that website is for informational purposes only and no purchases can be made or processed through the website.

13. Demand Vape’s customers are generally required to pay the invoice corresponding to a shipment before the shipment will be released. Demand Vape’s invoices include the following term of sale: “The sale is completed once goods are shipped from our facility.”

14. When a domestic or international customer purchases an e-cigarette or e-liquid product from Demand Vape, Demand Vape ships the product from its warehouse in Buffalo to the customer. Demand Vape does not store, sell from, or ship any of its products from New York City.

15. Before any retailer located in New York State can place its first order with Demand Vape, the customer is required to provide a copy of its active New York State vapor product dealer's registration certificate to our compliance team for review and approval of the shipment.

16. Neither Magellan, Demand Vape, nor I have any ownership interest in, control over, or involvement in the operations of any distributor or retailer of e-cigarette products located in New York City.

17. Based on my review of company records, Demand Vape has never sold any e-cigarette products to any of the following companies located in New York City: Empire Vape, Yolo Smoke City, Convenience of Columbus, Morris Park Convenience Store, Garden Fresh Gourmet Deli, Hookah 2 Plus, LA Convenience Store, and XXX Vape Shop.

18. I, and, to my knowledge and belief, Magellan and Demand Vape, have never had any specific knowledge of illegal sales to individuals under 21 years of age by any customer in New York City to which Demand Vape sells.

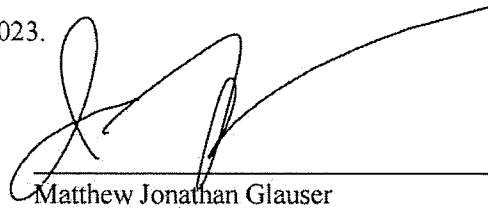
19. Nevertheless, in light of the concerns raised by the City, I have instituted at Demand Vape a formal policy that prohibits anyone in the company from selling non-tobacco-flavored e-cigarettes or e-liquids to any retailers based in New York City.

20. In addition to Magellan and Demand Vape, I also own a Virginia entity called Firmitas Solutions, LLC ("Firmitas"). Firmitas is based in Henrico, Virginia, and is a contract manufacturer of e-liquids.

21. Donald Hashagen is the executive vice-president of Firmitas. Mr. Hashagen lives in Virginia and manages Firmitas' manufacturing operations. He has never had any involvement in the sales activities of either Magellan or Demand Vape and has no reason to have any knowledge about those activities. Mr. Hashagen has never had any involvement in selling or offering for sale any e-liquids or e-cigarette products to anyone in New York City.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 8th day of December, 2023.



Matthew Jonathan Glauser